

AN ORDINANCE INCREASING THE ESTIMATED RECEIPTS AND APPROPRIATIONS IN THE SEWER CAPITAL PROJECTS FUND IN THE AMOUNT OF \$15,365,397.00, FROM AVAILABLE FUNDS, FOR THE PURPOSE OF FUNDING PHASE V, SECTION 2 OF THE CITY'S ENERGY SAVINGS PERFORMANCE CONTRACT; PROVIDING FOR A SEVERABILITY CLAUSE; MAKING THIS ORDINANCE CUMULATIVE OF PRIOR ORDINANCES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

That in addition to those amounts allocated to the various City departments for Fiscal Year 2009-2010 in the Budget of the City Manager, there shall also be increased estimated receipts and appropriations in the Sewer Capital Projects Fund in the amount of \$15,365,397.00, from available funds, for the purpose of funding Phase V, Section 2 of the City's energy savings performance contract.

SECTION 2.

That should any portion, section or part of a section of this ordinance be declared invalid, inoperative or void for any reason by a court of competent jurisdiction, such decision, opinion or judgment shall in no way impair the remaining portions, sections, or parts of sections of this ordinance, which said remaining provisions shall be and remain in full force and effect.

SECTION 3.

That this ordinance shall be cumulative of Ordinance No.18809 and all other ordinances and appropriations amending the same except in those instances where the provisions of this ordinance are in direct conflict with such other ordinances and appropriations, in which instance said conflicting provisions of said prior ordinances and appropriations are hereby expressly repealed.

SECTION 4.

This ordinance shall take effect upon adoption.

APPROVED AS TO FORM AND LEGALITY:

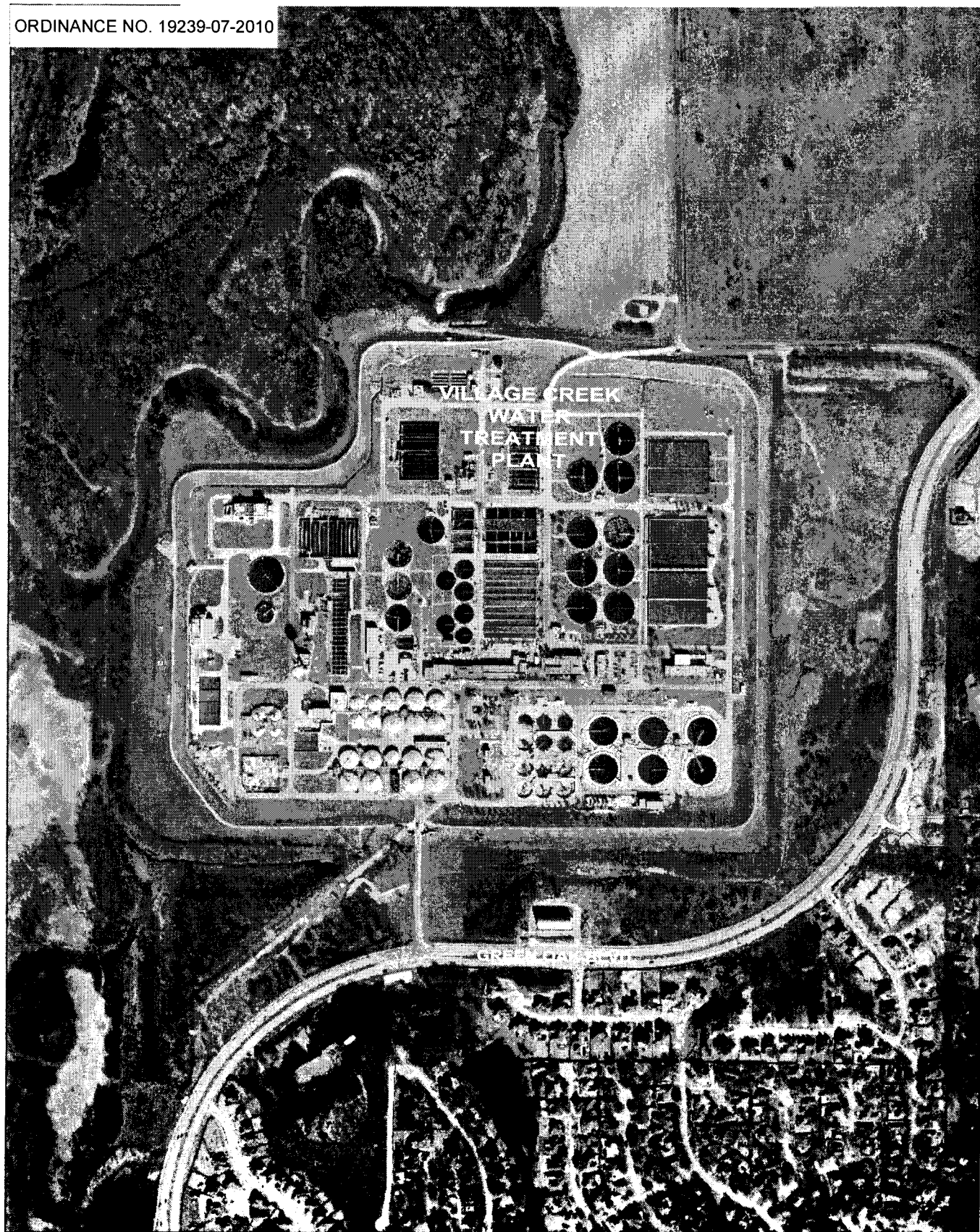

Assistant City Attorney

ADOPTED AND EFFECTIVE: July 20, 2010

MAYOR AND COUNCIL COMMUNICATION MAP

60VC PHASE V SECTION 2

ORDINANCE NO. 19239-07-2010



City of Fort Worth, Texas

Mayor and Council Communication

COUNCIL ACTION: Approved on 7/20/2010 - Ord. No. 19239-07-2010

DATE: Tuesday, July 20, 2010

REFERENCE NO.: C-24360

LOG NAME: 60VC PHASE V SECTION 2

SUBJECT:

Authorize Contract Amendment No. 5 in the Amount of \$17,889,397.00 to City Secretary Contract No. 29110 with Johnson Controls, Inc., and the Execution of Related Agreements to Implement Phase V, Section 2 of the City's Energy Savings Performance Contract at Village Creek Wastewater Treatment Plant and Adopt Appropriation Ordinance (ALL COUNCIL DISTRICTS)

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the City Manager to execute a Municipal Equipment Lease-Purchase Agreement in the principal amount of \$15,365,397.00 with Johnson Controls, Inc., at 3.69 percent interest for a total cost of \$19,782,691.16 to finance the implementation of the City's Energy Savings Performance Contract, Phase V, Section 2 at Village Creek Wastewater Treatment Plant;
2. Authorize the City Manager to execute an Escrow Agreement with Johnson Controls, Inc., and Deutsche Bank National Trust Company, as Escrow Agent, in accordance with the Municipal Equipment Lease-Purchase Agreement;
3. Adopt the attached appropriation ordinance increasing estimated receipts and appropriations in the Sewer Capital Projects Fund by \$15,365,397.00 from available funds for Phase V, Section 2 of the City's Energy Savings Performance Contract with Johnson Controls, Inc., and
4. Authorize the City Manager to execute Amendment No. 5 in the amount of \$17,889,397.00 to City Secretary Contract No. 29110 with Johnson Controls, Inc., to implement Energy Savings Performance Contract, Phase V, Section 2 at Village Creek Wastewater Treatment Plant.

DISCUSSION:

On September 2, 2003, (M&C C-19739) the City Council authorized an Energy Savings Performance Contract, Phase I with Johnson Controls, Inc. Subsequently, ESPC Phases II, III and IV were approved respectively by Amendment Nos. 1, 2, and 3.

On September 23, 2008, (M&C C-23046) the City Council authorized a contract with Johnson Controls, Inc., (JCI) to conduct a detailed energy study of the Village Creek Wastewater Treatment Plant (WWTP) as Phase V of the successful Energy Savings Performance Contract (ESPC) Project. The study is complete and the product of this study, the Utility Assessment Report (UAR), dated November 2009, has been reviewed and approved by City staff. Kinsman and Associates Engineering Consultants retained by the City as an independent third-party reviewer (M&C C-23788), has reviewed the report and verified that the project costs, guaranteed savings, and measurement & verification methods are appropriate.

On February 02, 2010, (M&C C-24070) the City Council authorized Amendment No. 4 to the City's ESPC for implementation of ESPC Phase V, Section 1 at the Village Creek WWTP. On that same date (IR No. 9185), City Council was informed of City staff's intent to forward an M&C seeking authorization to execute an agreement to implement the ESPC Phase V, Section 2 project at the Village Creek WWTP.

The proposed ESPC Phase V, Section 2 scope of work includes energy- and operations-related conservation measures and treatment process facility improvement measures to be installed at the Village Creek WWTP. The recommended measures include Turbine Waste-Heat Recovery, Anaerobic Co-Digestion, Digester Mixing Upgrades and Aeration Anoxic Zones.

The total JCI contract amount for Phase V, Section 2 is \$17,889,397.00. This amount includes \$2,600,000.00 for Final Engineering and Construction Management, which will be funded through existing Sewer Capital Projects Fund appropriations. After implementation of the improvements included in Section 2, the first-year electricity savings are estimated to be \$1,528,971.00. Including other cost avoidance, the simple payback period is about 11 years. While more than the 10-year payment target desired, City staff and its third-party reviewer deem it reasonable and appropriate for the scope of work included, and well within the 20-year limit set in the applicable Texas state law.

In accordance with the City's existing ESPC and as allowed by Texas Local Government Code Chapter 302, JCI published a Request for Bid for a Municipal Equipment Lease-Purchase (Municipal Lease) agreement to finance the recommended project. This resulted in JCI's best value selection of All American Investment Group, LLC (AAIG) to provide this financing through JCI. With the concurrence of City staff, the recommended Municipal Lease financing agreement with JCI will utilize this financier resulting in a total principal and interest cost to the City of \$19,782,691.16 to fund the project construction including a \$76,000.00 underwriting fee. The annual appropriation for the Lease-Purchase payments will be included in the operating budget requests for Water & Sewer and will be offset by electricity savings at the Village Creek WWTP.

The recommended Escrow Agreement with JCI is a necessary attachment to the Municipal Lease, allowing for progress payments to be made to JCI during the construction phase of the recommended project. The escrow bank associated with All American Investment Group, LLC (AAIG) is Deutsche Bank National Trust Company. JCI will submit progress pay requests to the City for approval of contracted work complete. City approved pay requests will then be submitted for payment directly from the escrow account with Deutsche Bank National Trust Company to JCI for the completed work.

As part of the recommended contract and in accordance with Chapter 302, JCI will guarantee projected savings to the City and will perform on-going Measurement and Verification services under an annually-renewable Assured Performance Guarantee (APG) service agreement. As with all project costs, the cost of the APG is included as an avoided cost to the City. JCI will also manage appropriate applications for and secure potential utility incentives that may be available for the recommended project work.

Johnson Controls, Inc., is in compliance with the City's M/WBE Ordinance by committing to five percent M/WBE participation. The City's goal on this project is five percent.

The Village Creek Wastewater Treatment Plant is located in CITY COUNCIL DISTRICT 5 and serves ALL COUNCIL DISTRICTS.

FISCAL INFORMATION / CERTIFICATION:

The Financial Management Services Director certifies that upon approval of the above recommendations, and adoption of the attached appropriation ordinance, funds will be available in the current capital budget, as appropriated, of the Sewer Capital Projects Fund.

FUND CENTERS:**TO Fund/Account/Centers**

1) PS58 487100 070580306420

3) PS58 487100 070580306420

3) PS58 541200 070580306420

\$15,365,397.00

\$15,365,397.00

\$15,365,397.00

FROM Fund/Account/Centers

4) PS58 531200 070580306420

4) PS58 541200 070580306420

\$2,600,000.00

\$15,365,397.00

CERTIFICATIONS:**Submitted for City Manager's Office by:**

Fernando Costa (6122)

Originating Department Head:

S. Frank Crumb (8207)

Additional Information Contact:

Madelene Rafalko (8215)